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Attorneys for Plaintiffs,

OWEN DIAZ

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DI-AZ, OWEN DIAZ, and
LAMAR PATTERSON,

Plaintiffs,

v.

TESLA, INC. dba TESLA MOTORS, INC.;
CITISTAFF SOLUTIONS, INC.; WEST
VALLEY STAFFING GROUP;
CHARTWELL STAFFING SERVICES, INC.;
and DOES 1-50, inclusive,

Defendants.

Case No. 3:17-cv-06748-WHO

**PLAINTIFF'S OBJECTION TO
PROPOSED VERDICT FORM**


Trial Date: September 27, 2020
Complaint filed: October 16, 2017

1 Plaintiff Owen Diaz respectfully requests an modification to Question 9, “Punitive
2 Damages for Civil Rights Claims,” on the proposed verdict form. Plaintiff proposes the
3 following addition (underlined):

4 You may only award punitive damages for the reasons discussed in Instruction No. 41,
5 that is, if you find that the defendant’s conduct that harmed the plaintiff was malicious,
6 oppressive or in reckless disregard of the plaintiff’s rights. Do you find by a
7 preponderance of the evidence that Owen Diaz is entitled to punitive damages against
8 Tesla Inc. for any of the following: creating a hostile work environment based on race
9 (Question 3A or 3B), violating civil rights in a contractual relationship (Question 4),
10 and/or failing to prevent harassment based on race in the workplace (Question 5)?

11 As phrased, the verdict form suggests Plaintiff may only recover punitive damages if he
12 prevails on his hostile work environment claims. In fact, punitive damages are available under 42
13 U.S.C. § 1981. *See Johnson v. Railway Express Agency*, 421 U.S. 454, 460 (1975) (prevailing §
14 1981 plaintiffs entitled to compensatory and punitive damages). Plaintiff’s proposed revision will
15 avoid confusion and make clear to the jury punitive damages can be awarded on the contract-
16 based claim.

17
18 Dated: October 2, 2021


 J. Bernard Alexander
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 Navruz Avloni
 Cimone A. Nunley
 Attorneys for Plaintiff
 OWEN DIAZ